



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Robert Fitzgerald, Associate Member

DECISION - BOARD OF APPEALS CASE NO. 23-17

APPLICANT
Ryan Faenza Carey

LOCATION OF PROPERTY INVOLVED:
825 Main Street
Walpole Assessors Map 25, Parcel 180

APPLICATION:

A VARIANCE from Section 7: Sign Regulations, 4. Permitted Sign Types – ALL RESIDENTIAL DISTRICTS, C. Address/Identification Signs of the Zoning Bylaw to allow: a free-standing sign of not more than 20 square feet in area to include identification of the business and occupants of the premises, and such other relief as the Board deems necessary.

On December 6, 2017, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to granting of the Variance requested. The members who were present and voting:

Matthew Zuker, Chairman
Craig Hiltz, Clerk
Mary Jane Coffey, Member
Robert Fitzgerald, Associate Member

**SIGN VARIANCE
VOTE OF THE BOARD**

A motion was made by Mr. Hiltz and seconded by Ms. Coffey, that the Board grant Ryan Faenza Carey a Variance from Section 7: Sign Regulations, 4. Permitted Sign Types – ALL RESIDENTIAL DISTRICTS, C. Address/Identification Signs of the Zoning Bylaw to allow: a free-standing sign of not more than 20 square feet ("SF") in area to include identification of the business and occupants of the premises.

The vote was 4-0-0 in favor (Zuker, Hiltz, Coffey, Fitzgerald voting); therefore, the Variance from Section 7.4.C is hereby granted, subject to the following conditions:

1. The sign shall be located as shown on the plans presented at the Public Hearing.
2. The sign size shall be no greater than 20 SF.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Section 2.3 to justify the requested sign Variance. The Board finds that a 20 SF sign is required due to unique circumstances, a literal enforcement of the sign size requirement would cause undue hardship, and that the proposed sign size does not cause a detriment to the public good or derogate from the intent and purpose of the Bylaw for the General Residential District. Accordingly, the Board has determined that the Variance requested is warranted.

FURTHER FINDINGS

Section 2: Administration, 3. Variances provides that the Board of Appeals may grant, upon appeal or upon petition, with respect to particular land or structure thereon, a variance from the terms of this Bylaw where the Board of Appeals finds:

1. Section 2.3 First Clause

Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship financial or otherwise, to the appellant or petitioner and

The Board finds that the lot is uniquely situated in a General Residential District along Route 1A surrounded by other businesses in the Limited Manufacturing District to the north and Central Business District to the south. The lot is located on a heavily travelled straight away of Route 1A where traffic travels at a high rate speed. In addition, the building is set back 143 feet from the front property line, which is over four (4) times the required front setback. As the office building is not readily visible to clients on Route 1A due to the excessive setback, the sign is the primary visual cue to clients. Due to this unique lot situation and shape, and excess frontage area, a conforming sign would not be sufficiently visible to individuals traveling along Route 1A to approach and enter the business safely and not cause safety issues to other Route 1A vehicles. This situation is compounded by the fact that a very large tree exists close to the street right of way, which partially obscures the view of the sign from the road. For all of these reasons, visibility of the sign is impeded as the Site is approached on Route 1A from either the Northbound or Southbound direction.

The Board finds that for the unique reasons stated above, the Site's use as a business (permitted via Special Permit 51/98) would be severely restricted without the ability to have a larger sign at the premises, which would create substantial financial hardship for the Applicant. In addition, the sign has already been constructed in good faith reliance upon the 2015 permit for the previous sign at the premises (which was the same size, shape and location), at a cost to the Applicant of approximately \$5,000.00, and the Board finds that requiring the Applicant to order a new sign at this point would create financial hardship. As such, the Board finds that this requirement is met.

2. Section 2.3 Second Clause

That desirable relief may be granted without substantial detriment to the public good and

The Board finds that granting the requested variance will not have substantial detriment to the public good. The lot is located on a straight section of Route 1A which provides sufficient sight lines such that a larger sign does not create a safety issue. The sign is less than what would otherwise be allowed in a business district (20sq' where 56sq' allowed). As stated above, the sign was originally constructed under a 2015 permit and there have been no reported issues with the sign in the past 2 years.

As stated above, the sign enhances traffic safety site distances, supporting safe travel on Main Street. As such, the Board finds that this requirement is met.

3. Section 2.3 Third Clause

Without nullifying or derogating from the intent and purpose of this Bylaw.

The Board finds that granting the requested variance will not nullify or derogate from the intent or purpose of the Bylaw. The purpose of Section 7 is to coordinate the type, placement and scale of signs within each of the zoning districts established under the Bylaw. As stated above, the Site is used as business under a Special Permit granted in 1999 and is surrounded by other businesses along Route 1A with Limited Manufacturing District to the north and Central Business District to the south. The 2017 Sign is in proportion to other signs and the size of the sign is in keeping with other business signs in the area, and therefore consistent with the character of the neighborhood. . The abutting office building to the south and the office building diagonally across the street are both in the same district and have signs ranging between 15 SF and 30 SF. In addition, the 2017 Sign has been tastefully designed, and is in harmony with the Main Street neighborhood. As such, the Board finds that this requirement has been met.

CONSISTENCY

This decision is consistent with the purpose and intent of the Zoning Bylaws.

Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a Variance are not exercised within one year of the date of grant of such Variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

Massachusetts General Laws c. 40A, s. 11 provides in pertinent part as follows:

“...No Variance or Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded at the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner’s certificate of title. The fee for recording or registering shall be paid by the owner or applicant.”

APPEALS FROM THIS DECISION FOR A VARIANCE, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS

Craig W. Hiltz, Clerk

am

cc: Town Clerk Engineering Planning Board
Board of Selectmen Building Inspector Conservation Commission

This decision was made on December 6, 2017 and filed with the Town Clerk on December 19, 2017.